

AMENDED IN SENATE MARCH 17, 2005

SENATE BILL

No. 169

Introduced by Senator Migden

February 9, 2005

An act to amend Sections 25373 and 37361 of the Government Code, relating to historic preservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 169, as amended, Migden. Historic preservation: Saint Brigid Church.

Existing law authorizes cities and counties to acquire property for the purpose of developing or preserving a historical landmark, or for the purpose of developing recreational facilities and further authorizes cities and counties to enact, by ordinance, special conditions or regulations for the purpose of protecting places, buildings, and objects of special historical or cultural value.

Existing law also exempted, until January 1, 1995, noncommercial property owned by specified religiously affiliated associations or corporations from any special condition or regulation enacted by ordinance, if the association or corporation objects to the application of the special condition or regulation, and the association or corporation makes specified determinations in a public forum. Existing law also requires that these provisions do not infringe on the authority of a city or county to enforce special conditions and regulations on any property designated pursuant to these provisions prior to January 1, 1994.

This bill would require that these provisions do not apply to the Saint Brigid Church located at 2151 Van Ness Avenue within the City and County of San Francisco.

~~Existing law provides that it is the policy of the state to encourage the stewardship and preservation of California's historical resources.~~

~~This bill would state that it is the intent of the Legislature to preserve Saint Brigid Church in San Francisco.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to preserve~~
2 ~~Saint Brigid Church at the corner of Broadway and Van Ness~~
3 ~~Avenue in San Francisco as a landmark of historic significance.~~

4 ~~SECTION 1. Section 25373 of the Government Code is~~
5 ~~amended to read:~~

6 25373. (a) The board of supervisors may acquire property for
7 the preservation or development of a historical landmark. The
8 board of supervisors may also acquire property for development
9 for recreational purposes and for development of facilities in
10 connection therewith.

11 (b) The board may, by ordinance, provide special conditions
12 or regulations for the protection, enhancement, perpetuation, or
13 use of places, sites, buildings, structures, works of art and other
14 objects having a special character or special historical or
15 aesthetic interest or value. These special conditions and
16 regulations may include appropriate and reasonable control of the
17 appearance of neighboring private property within public view.

18 (c) Until January 1, 1995, subdivision (b) shall not apply to
19 noncommercial property owned by a religiously affiliated
20 association or corporation not organized for private profit,
21 whether incorporated as a religious or public benefit corporation,
22 unless the owner of the property does not object to its
23 application. Nothing in this subdivision shall be construed to
24 infringe on the authority of the board of supervisors to enforce
25 special conditions and regulations on any property designated
26 prior to January 1, 1994.

27 (d) Subdivision (b) shall not apply to noncommercial property
28 owned by any association or corporation that is religiously
29 affiliated and not organized for private profit, whether the
30 corporation is organized as a religious corporation, or as a public
31 benefit corporation, provided that both of the following occur:

32 (1) The association or corporation objects to the application of
33 the subdivision to its property.

(2) The association or corporation determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.

(e) Nothing in this subdivision shall be construed to infringe on the authority of any legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994, or to authorize any legislative body to override the determination made pursuant to paragraph (2) of subdivision (d).

(f) *Nothing in subdivisions (c) and (d) of this section shall apply to the property known as the Saint Brigid Church located at 2151 Van Ness Avenue within the City and County of San Francisco.*

SEC. 2. *Section 37361 of the Government Code is amended to read:*

37361. (a) The legislative body may acquire property for the preservation or development of a historical landmark. The legislative body may also acquire property for development for recreational purposes and for development of facilities in connection therewith.

(b) The legislative body may provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both.

(c) Until January 1, 1995, subdivision (b) shall not apply to noncommercial property owned by a religiously affiliated association or corporation not organized for private profit, whether incorporated as a religious or public benefit corporation, unless the owner of the property does not object to its application. This subdivision does apply to a charter city. Nothing in this subdivision shall be construed to infringe on the authority of the legislative body to enforce special conditions and regulations on any property designated prior to January 1, 1994. Subdivision (b) shall not apply to noncommercial property

1 owned by any association or corporation that is religiously
2 affiliated and not organized for private profit, whether the
3 corporation is organized as a religious corporation, or as a public
4 benefit corporation, provided that both of the following occur:

5 (1) The association or corporation objects to the application of
6 the subdivision to its property.

7 (2) The association or corporation determines in a public
8 forum that it will suffer substantial hardship, which is likely to
9 deprive the association or corporation of economic return on its
10 property, the reasonable use of its property, or the appropriate
11 use of its property in the furtherance of its religious mission, if
12 the application is approved.

13 (d) Nothing in this subdivision shall be construed to infringe
14 on the authority of any legislative body to enforce special
15 conditions and regulations on any property designated prior to
16 January 1, 1994, or to authorize any legislative body to override
17 the determination made pursuant to paragraph (2) of subdivision
18 (c). This subdivision shall apply to a charter city.

19 (e) *Nothing in subdivision (c) of this section shall apply to the*
20 *Saint Brigid Church located at 2151 Van Ness Avenue within the*
21 *City and County of San Francisco.*

22 *SEC. 3. Due to the unique circumstances facing the Saint*
23 *Brigid Church within the City and County of San Francisco*
24 *relating to its possible closure, the Legislature hereby finds and*
25 *declares that a general statute cannot be made applicable within*
26 *the meaning of Section 16 of Article IV of the California*
27 *Constitution. Therefore, the special legislation contained within*
28 *Sections 1 and 2 of this act are necessarily applicable only to the*
29 *Saint Brigid Church within the City and County of San*
30 *Francisco.*